

PATENT APPLICATION

AF/3673
IPW

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Tadashi FUKUMOTO et al
Title : BREAKWATER GENERATING STRUCTURE
Serial No. : 09/863 749 Group: 3673
Confirmation No.: 9164
Filed : May 23, 2001 Examiner: Spahn
Atty. Docket No.: Ishii 16

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FIRST CLASS MAILING CERTIFICATE

Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR 1.8 as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 8, 2005.

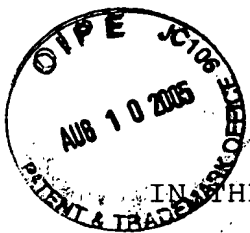

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Correspondence: Reply Brief Under 37 CFR 41.41
dated August 8, 2005
including enclosures listed thereon

190.05/05



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REPLY BRIEF UNDER 37 CFR 41.41

Sir:

This Reply Brief is filed pursuant to the provisions of 37 CFR 41.41 in response to the Examiner's Answer dated June 7, 2005.

Under the heading "Grounds of Rejection", the Examiner states that JP 55-110520 discloses the structure required by Claims 13, 15 and 21. Regarding Claim 13, the Examiner states that this reference discloses a structure capable of performing as a submerged breakwater where the structure comprises a open box having a vertical wall with at least one opening (3) existing at a lower side of the vertical wall and slits (5a) that are inclined with respect to the direction along which waves propagate, disposed along the top portion of the box, wherein the slits define openings provided in spaced apart relationship.

At the outset, Appellants wish to point out that the structure disclosed in JP 55-110520 is designed so that part of it is submerged and part of it is provided above the water surface. Since the breakwater structure of Yamamoto functions by the force of the waves being dissipated into recess grooves by the high side of the breakwater structure being partially exposed above the ocean, one of ordinary skill in the art

would not take the position that such a device could function as a breakwater structure when the entire structure is submerged.

Additionally, Claim 13 requires the provision of a vertical wall having at least one opening at a lower end at an off-shore side. The openings 3 shown in Yamamoto are not provided at a lower end of a vertical wall but in fact extend practically throughout the whole height thereof.

Additionally, Claim 13 requires that the top portion of the box have slits inclined with respect to the direction along which waves propagate. The slits in the Yamamoto reference are sloped with respect to a vertical direction and not a horizontal direction along which waves propagate. Due to these differences, Appellants respectfully submit that the invention shown by currently presented Claims 13, 15 and 21 clearly are not anticipated under 35 USC 102(b) by the Yamamoto reference.

Claim 15 is distinguishable over the Yamamoto et al reference in that it requires that at least one hole be formed in the bottom of the box. Appellants respectfully submit that the opening (3) cannot be provided at both a lower end of the vertical wall and at the bottom of the box as the Examiner proposes in order to substantiate his rejection of the claims. The Yamamoto reference does not disclose the provision of an opening at the bottom of the box and, as such, Claim 15 is clearly patentably distinguishable over the Yamamoto reference.

With respect to the rejection of Claims 6, 18, 23 and 24 as being obvious under 35 USC 103(a) over the Yamamoto reference, the Examiner once again states that this reference discloses a structure that is capable of performing as a submerged breakwater. Appellants once again respectfully traverse this position as the structure disclosed in Yamamoto is designed so that only part of it is submerged with the other part that is provided above the water surface actually dissipating the force of the waves. The Examiner states that

the structure disclosed by the Yamamoto reference could be placed anywhere on a sea bed. However, Appellants cannot find any support in Yamamoto for such a position. The Yamamoto reference requires that the breakwater structure disclosed there be positioned in a specific orientation. As such, Appellants respectfully submit that there is no support provided for the Examiner's statement that the structure of Yamamoto et al can be located anywhere, other than the opinion of the Examiner. Additionally, as with the claims which were rejected under 35 USC 102(b) over the Yamamoto reference, Claims 16, 18, 23 and 24 require the provision of a vertical wall disposed on an offshore side which has an opening provided at a lower end thereof and a top having slits inclined with respect to the direction along which waves propagate. As shown above, Yamamoto does not disclose these features.

With respect to Claims 23 and 24, the Examiner states that the Yamamoto reference discloses the basic method steps required to develop the method steps claimed by the present invention. Since the method of Claims 23 and 24 require that the breakwater generating structure be submerged, Yamamoto clearly does not disclose these method steps as the breakwater generating structure disclosed there has a portion provided above the water. Since the breakwater generating structure of Yamamoto would not function as intended if provided in a completely submerged condition, the method of Claims 23 and 24 clearly are not shown by this reference.

For the reasons outlined above, Appellants respectfully submit that the reversal of the Examiner's rejection of Claims 13, 15, 16, 18, 21, 23 and 24 is warranted. Favorable consideration is respectfully solicited.

Respectfully submitted,


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